



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 3777-02
6 December 2002

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 December 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 4 August 1952 at the age of 17. You served for a year and seven months without disciplinary incident, but on 18 March 1954 you received nonjudicial punishment (NJP) for disobedience and were awarded extra duty for a week. On 21 July 1954, following a medical examination, you were diagnosed with an inadequate situational maladjustment personality, and recommended for an administrative separation. On 29 November 1954 you submitted a written statement in which you admitted to possession and use of marijuana. At that time your commanding officer stated that due to a lack of evidence other than your confession, you would not be court-martialed.

On 23 March and again on 18 April 1955 you submitted written requests for a hardship discharge stating, in part, that your father was gravely ill and that you were needed at home to provide support for your mother. Both of these requests were denied. On 22 April 1955 you received NJP for failure to obey a lawful order and were given a warning. On 6 July 1955 you received your third NJP for shirking and were awarded extra duty

for two weeks. Shortly thereafter, on 26 April 1955, your commanding officer recommended you be issued an undesirable discharge by reason of unfitness. However, on 23 May 1955, the discharge authority disapproved this recommendation.

On 7 July 1955 you were advised that a recommendation for an undesirable discharge would be resubmitted due to your habitual shirking of duty and possession and use of marijuana. At that time you submitted a written statement retracting your previous confession of possession and use of marijuana. Shortly thereafter, on 18 July 1955, your commanding officer again recommended an undesirable discharge by reason of unfitness because of habitual shirking, repeatedly committing offenses which were not triable by court-martial, and inability to maintain standards. This recommendation noted, in part, as follows:

Recommend Member be discharged because of habitual shirking duty and repeatedly committed offenses not necessary for trial by courts-martial, and unable to maintain minimum standards in any department assigned to duty, is a chronic complainer, as turned himself into sickbay on numerous baseless complaints to escape performance of duties. An investigation has been completed involving the possession and use of marijuana aboard naval station. Member confessed possession and use of marijuana in company with other naval personnel, all of whom are being recommended for discharge. Member made statement retracting previous statement, admitted trying to smoke a marijuana cigarette, but unable to complete act due to nausea, and requested retention.

Subsequently, you were processed for separation by reason of unfitness. On 31 August 1955 the discharge authority directed an undesirable discharge by reason of unfitness, and on 20 September 1955 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, post service conduct, and your contention of religious discrimination. It also considered your contention that now that you are older you would like the undesirable discharge expunged from the record. Nevertheless, the Board concluded recharacterization of your discharge was not warranted because of your repetitive misconduct, which included the possession and use of drugs. Further, there is no evidence in the record, and you submitted none, to support your contention of religious discrimination. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director